

FAHROgram

FLORIDA ASSOCIATION OF HOUSING AND REDEVELOPMENT OFFICIALS

May/June 2015

President's Message

FAHRO's Legislation Falls Victim to the House's Early Departure Groundwork Laid for Next Year's Effort

In an abrupt move, the Florida House of Representatives adjourned three days ahead of schedule, due to continued disagreements with the Senate over the budget and Medicaid expansion. As a result, any effort to pass our legislation this year died along with countless other bills, making this session one in which the fewest number of bills passed in modern history.

This is a disappointing outcome for us, but as always, we will continue to fight for changes that are necessary to help the communities that rely upon us. I send a sincere thank you to Oscar Anderson for all the time and effort he put into helping progress our legislation. Oscar did a great job of advocating for FAHRO and moving our bill

through the process. We had the support of the Florida Association of Counties, the Florida League of Cities and the Florida Housing Finance Corporation. While we ultimately were unsuccessful this year, we have made great strides that give us a much greater likelihood of success in 2016, when we will hope for a more harmonious legislative environment.



Maria A. Burger

On a positive note, we held our annual FAHRO Executive Directors (ED) Forum on May 13 and 14. This has always been and

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State Legislative Affairs

Florida's Very Own Constitutional Crisis

by Oscar Anderson, FAHRO State Affairs Consultant

The Legislature adjourned *sine die*, though not quite the way it has in the past. For the first time since records have been kept, the House and the Senate did not adjourn on the same day. In a shocking and unprecedented move, the Florida House of Representatives adjourned very early, at 1:15 p.m. on Tuesday, April 28. The Senate followed a more typical approach and adjourned at 11:59 p.m. on Friday, May 1. Between that Tuesday and Friday, the Senate Democrats filed suit in the Florida Supreme Court,

arguing that the House of Representatives was in violation of the State Constitution by adjourning for more than 72 hours without a concurrent resolution with the Senate. Amazingly, the Senate Democrats prevailed, and the Florida Supreme Court ruled 5-2 that the House had violated the



Oscar Anderson

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Calendar

June 14-17, 2015
Louisville, Ky.
SERC Annual Conference

July 30-August 1, 2015
Austin, Tex.
NAHRO Summer Conference

August 11-13, 2015
Orlando, Fla.
FAHRO Annual Convention & Trade Show
Disney's Yacht Club Resort

August 30-September 2, 2015
Orlando, Fla.
FHC Conference

September 15-16, 2015
Washington, D.C.
PHADA Legislative Forum

October 15-17, 2015
Los Angeles, Calif.
NAHRO National Conference

November 8-10, 2015
Jacksonville, Fla.
SERC Fall Workshop

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Member Feedback

Do you need help with a project or issue and want to see if any of our readers have the answer? Has a colleague done something wonderful that deserves an attaboy or attagirl? Or are you just frustrated and want to vent? Here is your chance to (anonymously if you wish) say thanks, ask for assistance, vent your frustrations, express your opinion or let us know how you feel.

- The Housing Authority of the City of Daytona Beach is extremely proud of the youth that worked so hard to earn the title of first place and win the FAHRO Invitational Statewide Basketball Tournament for HACDB. Won in overtime with a just-in-time three-point basket, it was an unbelievable ending to an incredible event that



taught valuable lessons to kids who will carry those experiences to a brighter future.

- Don't miss the FAHRO Annual Convention & Trade Show, Aug. 11-13, 2015, at Disney's Yacht Club Resort!
- Thank you to Oscar Anderson, FAHRO legislative consultant, for his hard work during the 2015 Legislative Session.

If you would like to contribute to Sounding Off, please email your comments to Susan Trainor, FAHROgram editor, editor.trainor@gmail.com.

PRESIDENT'S MESSAGE continued from page 1

continues to be one of the best opportunities to share and learn from the decades of combined experience that FAHRO members possess. A key discussion at the ED Forum was on how agencies are dealing with funding cutbacks. We experienced the advantage of learning from each other as members

shared the creative ideas they have devised to shrink their budgets.

After wrapping up the successful 2015 ED Forum, we turn our attention to the 2015 FAHRO Annual Convention & Trade Show. See you August 11-13 at Disney's Yacht Club Resort!

STATE LEGISLATIVE AFFAIRS continued from page 1

Constitution by adjourning early. Given that the end to regular session was only a day away though, there was no real remedy for the House's actions.

Let us never negotiate out of fear. But let us never fear to negotiate. — John F. Kennedy

One of the many victims of the early adjournment by the House of Representatives was FAHRO's legislation. With many options to get our language passed, amendments were being filed in the Senate to continue to put our language into even more pieces of legislation when the news came down that the House had adjourned. Our FAHRO legislation had the support of the Florida League of Cities and the Florida Association of Counties, as well as support from the Florida Housing Finance Corporation.

A billion here, a billion there ... pretty soon you're talking real money. — Everett Dirksen

The big sticking point between the two bodies was the disagreement over the expansion of Medicaid. The Medicaid disagreement created a \$4 billion difference between the House and the Senate that essentially shut down conversations between the two chambers. The question on everyone's mind now is whether or not the House speaker and the Senate president can overcome the rhetoric to put together a state budget for next year.

The most difficult thing in any negotiation, almost, is making sure that you strip it of the emotion and deal with the facts. — Howard Baker

The House and the Senate have agreed

**See STATE LEGISLATIVE AFFAIRS
on page 8**

FAHRO Seeks Award Nominations

Deadline: June 26, 2015

FAHRO will award Outstanding Individual, Outstanding Facility, Best Practices and Newsletter awards at the FAHRO Annual Convention and Trade Show, to be held Aug. 11-13, 2015, in Orlando, Fla. Complete information and application forms have been posted on the FAHRO website (www.FAHRO.org; click on Membership and then 2015 FAHRO Awards), or you may email Chad@FAHRO.org for details.

FAHRO's Outstanding Individual Awards

Recipients demonstrate commitment to solving housing and associated community problems and display leadership and advocacy excellence in addition to excellence within the nominee's employment that exceeds what would be normally expected. Past awards, commendations and professional affiliations are also considered when judging nominees for this award.

FAHRO's Outstanding Agency Awards

Recipients demonstrate an overall agency commitment to solving housing and associated community problems and demonstrate innovation and industry involvement. Affiliations with state and federal associations and past awards are considered, as is HUD High Performer classification.

FAHRO's Best Practices Awards

Best practices are judged on the expected outcomes and benefits, the actual outcomes and benefits achieved, cost effectiveness and transferability to other agencies.

FAHRO Newsletter Competition

A winner will be selected from one small authority, one medium authority and one large authority. Also, one award will be given for best overall layout and design.

FAHRO Website Competition

A winner will be selected from one small authority, one medium authority and one large authority. Also, one award will be given for best overall layout and design.

Agencies should email all entries no later than **June 26, 2015**, to Chad Faison, director of communications, at Chad@FAHRO.org. 🌿

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Florida Supreme Court Rules in Favor of Murder Victims' Estate in Negligent Apartment Security Case

by Tracy M. Evans, Esq.



Tracy M. Evans, Esq.

A recent decision by the Florida Supreme Court (Supreme Court) reversing the 4th District Court of Appeal's decision in *Sanders v. ERP Operating Limited Partnership*, 96 So.3d 929 (Fla. 4th DCA 2012) highlights the importance of maintaining adequate security in apartment complexes.

The *Sanders* case involved the 2004 murder of two young adults in the unit they rented in an apartment complex marketed as a "gated community." The apartment complex had a gate stretching across the front entrance and water, walls or fencing surrounding the remainder of the complex. The apartment complex had a policy of providing reasonable lighting, locks and peepholes, and renters had the option of activating alarm systems contained within the individual apartment units. During the three years leading up to the murders, there were two separate criminal incidents where the front gate was broken, resulting in an armed robbery and an assault. When the murders occurred, the front gate was not operational and had been broken for two months.

The apartment complex had a policy manual recommending that residents be notified when "a significant crime" occurred on the property and that such notice be provided on the same day the incident was reported to management. In the three years immediately preceding the murders, there were 20 criminal incidents in the apartment complex including seven burglaries, two robberies and ten car thefts. The apartment complex did not send notices to its residents regarding these incidents.

The murder victims' personal representative brought suit against the complex owner for negligence, alleging that the complex owner failed to maintain the premises in a reasonably safe condition by failing to maintain the front gate, failing to provide adequate security, failing to prevent dangerous persons from gaining access to the complex and failing to protect and warn residents of any dangerous conditions and criminal acts.

At trial, each side presented expert testimony. The personal representative's criminology expert testified that the majority of the crimes committed in the apartment complex over the past

See **SUPREME COURT** on page 7

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three years were “opportunistic crimes,” and it appeared the murders occurred during the course of a home invasion, an opportunistic crime. This expert also provided testimony that building personnel were trained via video to monitor opportunistic crimes and to minimize them “through awareness.” The video also expressed the importance of repairing mechanical failures, but the evidence established that the front gate was inoperable when the murders occurred.

The complex owner’s expert, a security consultant, testified that the security measures provided by the apartment complex, including one-entrance apartments with deadbolt locks and steel doors, were more than reasonable and met or exceeded industry standards. The expert concluded that since there was no evidence of a forcible entry into the apartment, the perpetrators likely gained access when one of the victims opened the door.

The complex owner moved for a directed verdict in its favor, arguing that the personal representative failed to establish that the complex owner’s acts or omissions contributed to the murders. The motion was denied, and the jury entered a verdict for the personal representative for \$4.5 million, finding the complex owner 40 percent at fault.

On appeal, the 4th District Court of Appeal (DCA) reversed the ruling on the motion for directed verdict, finding that the personal representative could not prove causation without evidence of how the perpetrators gained access to the apartment. The personal representative then sought review by the Supreme Court, which accepted jurisdiction.

The Supreme Court issued its decision on Feb. 12, 2015. In reviewing the 4th DCA’s decision, the Supreme Court noted the applicable standards in ruling on a motion for directed verdict. If there is only one reasonable inference that can be drawn from the evidence, a directed verdict is proper. The court noted that in reviewing a motion for directed verdict, the reviewing court must view all of the evidence and all inferences of fact in the non-moving party’s favor. A directed verdict can only be affirmed where no proper view of the evidence could sustain a verdict in the non-moving party’s favor.

The Supreme Court determined that the evidence presented by the personal representative allowed for the reasonable inference that the complex owner’s failure to maintain the front gate may have contributed to the murders. The contention that one of the victims opened the

door to the assailants was an issue of fact that should have been left to the jury to decide. Accordingly, the Supreme Court rejected the directed verdict entered by the 4th DCA and returned the case to the trial court for further consideration in light of its ruling. The complex owner subsequently filed a motion for rehearing, which is pending.

Apartment complex owners should ensure that adequate security measures are in place to protect residents and to minimize liability. Owners should also review their current policies and procedures to ensure property management is in compliance. All security features, including gates, alarms and locks, should undergo regular maintenance to ensure they are in good working order to protect against potential liability. While no amount of security will guarantee against criminal incidents, proper precautions will help insulate a complex owner from liability in the event a crime victim seeks damages against the complex owner.

The Supreme Court’s full opinion is available here: <http://www.floridasupremecourt.org/decisions/2015/sc12-2416.pdf>.

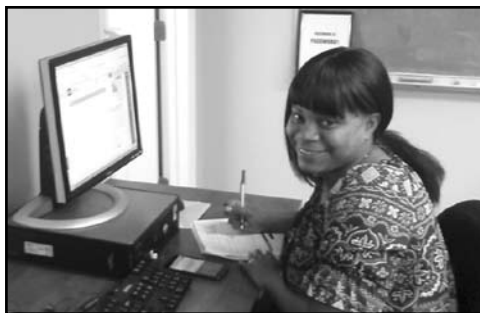
Tracy M. Evans is an associate at Saxon Gilmore & Carraway P.A. She practices in the areas of creditors’ rights and real estate litigation. ✿

HA Spotlight

Mothers in Action at Daytona HA’s Neighborhood Networks Centers

Bernadette Newkirk is the mother of Yanna, 17, Jordan, 12, and Cheyenne, 11. This family attends the Housing Authority of the City of Daytona Beach Northwood Village Center on a regular basis. Newkirk has expressed how grateful she is to have the center in her community. She is able to fax documents and send and receive email, and her kids enjoy being able to find information for their school projects. Newkirk says, “I found my jobs at Dunkin’ Donuts and McDonald’s by learning to perform better job searches at the center.”

People in various situations use the authority’s Pine Haven Neighborhood



Bernadette Newkirk

Networks Center. They come in a few times a week to access the internet and take care of any business they may have. Many times a single person will come in to take care of multiple things. One of those people is Monica Patter-



Monica Patterson

son. She is a single mother of two boys (Christopher and Devin) and a certified nursing assistant. She works very hard to provide the best for her sons and to show them that hard work truly does pay off. ✿

HACFM Celebrates Black History Month, Arbor Day in Fort Myers

The Housing Authority of the City of Fort Myers' (HACFM) Youth Choir recently performed as part of Hodges University's Black History Month celebration.

"We Choose to Remember, The Civil Rights Act of 1964" took place on Feb. 27 at Hodges University's Fort Myers campus. Presented by the Office of Diversity and Inclusion and the John Ebling Memorial at Hodges University American Legion Post 397, the event included speakers and musical performances honoring Black History Month and the civil rights movement.



Members of the HACFM Youth Choir are all smiles after their performance at Hodges University.

More than a dozen children ages 6 to 17 who live in HACFM neighborhoods make up the youth choir led by housing authority client services member Darlene Mitchell.

"Each time these kids perform at community events as representatives of the housing authority, they gain more confidence and pride in being part of a team," says Twaski Jackson, director of client services for the HACFM.

STATE LEGISLATIVE AFFAIRS continued from page 3

to come back in a special session from June 1 to June 20 to work out a budget for the state. At this point, there is no indication that any other policy issues will be included in the special session. FAHRO has been closely monitoring the funding for affordable housing (Sadowski funds), and obviously this funding will be a part of the budget discussion in June. The House has approximately \$70 million less than the Senate in both SHIP and SAIL funds.

It ain't over 'til it's over. – Yogi Berra

Even before the session ended so abruptly, many controversial issues were being pushed forward to next year's session. In 2016, the Legislature is convening early—in January and February—and the early session dates will require the House and the Senate to begin committee meetings as early as September or even August. FAHRO has a tremendous starting point to advocate for our legislation next year, and we will work to get our bill re-filed this summer to make those early committee meetings.

I look forward to seeing everyone at the annual conference in August! 🌿

More Trees=Less Crime

The HACFM, along with the City of Fort Myers, celebrated Arbor Day with a proclamation and tree dedication on Apr. 24 at the Dr. Carrie Robinson Community Center in Fort Myers.

The HACFM and city leaders, including Mayor Randy Henderson and City Manager Billy Mitchell, gathered to dedicate 64 new trees added to the HACFM's public-housing neighborhoods within the city in honor of Arbor Day. Mayor Henderson read a proclamation at the event.

According to *ACTrees.org*, more trees equal less crime. In studies done in Chicago, there were dramatically fewer occurrences of crime against both

people and property in apartment buildings surrounded by trees and greenery than in nearby identical apartments surrounded by barren land. The study also found that when compared to people who live in places



HACFM Executive Director Marcus Goodson, Mayor Randy Henderson of Fort Myers and City Manager Billy Mitchell

without trees, residents who live near trees have significantly better relations with and stronger ties to their neighbors. They have more visitors, socialize more with their neighbors, know more people in their apartment building and have a stronger sense of community than people who live in places without trees. 🌿

Association News

In Memoriam

Ronald C. Duffey



Ronald C. Duffey, 81, a lifelong resident of Clearwater/Dunedin, passed away on Mar. 26. He was an Army veteran and a retired engineer for GTE telephone company. Mr. Duffey was a member and elder of Northwood Presbyterian Church and a volunteer for Habitat for Humanity. He also worked for the Pinellas County Housing Authority and the city of Dunedin Housing Authority as a member of the comprehensive plan evaluation and monitoring committee.

Mr. Duffey is survived by his loving wife of 37 years, Mary; son Jason Keil of Bat Cave, N.C.; daughter Kimberly Flaherty of Palm Harbor; grandchildren Sarah and Shaun Flaherty of Palm Harbor; siblings Thomas Duffey, Michael Duffey, Paul Duffey and Lois Duffey; and many friends. 🌿

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Develop Strategies to Prevent a Data Breach

Your data breach prevention strategies may include encrypting all devices used by your employees, such as laptops, tablets and smartphones. Encrypting these devices will prevent unauthorized access if a device is lost or stolen. Unencrypted devices are often not covered by a cyber liability policy, so make sure you know whether or not you need to encrypt the devices.

Your strategies may also include educating employees about phishing and pharming* scams. Remind them not to click on anything that looks suspicious or seems too good to be true.

Analyze your cyber risks from three different perspectives: technology, people and processes. This risk assessment will give you a clear picture of potential holes in your security. Revisit and revise your plan regularly because new risks arise often, sometimes even daily.

Know Your Disclosure Responsibilities

If you experience a data breach, you may be legally required to notify certain people. If your company is publicly traded, guidelines issued by the Securities and Exchange Commission (SEC) make it clear that you must report cyber security incidents to stockholders—even when your company is only at risk of an incident.

The SEC advises timely, comprehensive and accurate disclosure about risks and events that would be important for an investor or a client to know. It's important to evaluate what information and how much detail should be released. Notifying a broad base when it is not required could cause unnecessary concern for those who have not been affected by the breach.

Some extreme cases of a data breach may cause you to go further than just assessing and disclosing the information. You may have to destruct or alter data depending on its sensitivity.

Your Crisis Management and Response Plan

Preparedness is key when developing your cyber risk management program. When you experience a data breach, you need to be prepared to respond quickly and appropriately. This is where your crisis management and response plan come into play.

Determine when and how the breach occurred, what information was obtained and how many individuals were affected. Then assess the risks you face because of the data breach and how you will mitigate those risks.

While managing a crisis, let your clients know what actions you are taking, but also be sure you're not disclosing too much information. It's a delicate balance. Focus on improving future actions—this will help restore your stakeholders' and clients' trust in you.

Your in-house lawyers, risk managers and IT department should work together to create and refine your plan. Everyone should be on board and know their responsibilities when a breach happens.

Protect Your Data—and Your Agency

Your cyber risk management program should include cyber liability insurance coverage that fits the needs of your agency.

Cyber liability insurance is specifically designed to address the risks that come with using modern technology—risks that other types of business liability coverage simply won't cover. The level of coverage your agency needs is based on your individual operations and can vary depending on your range of exposure.

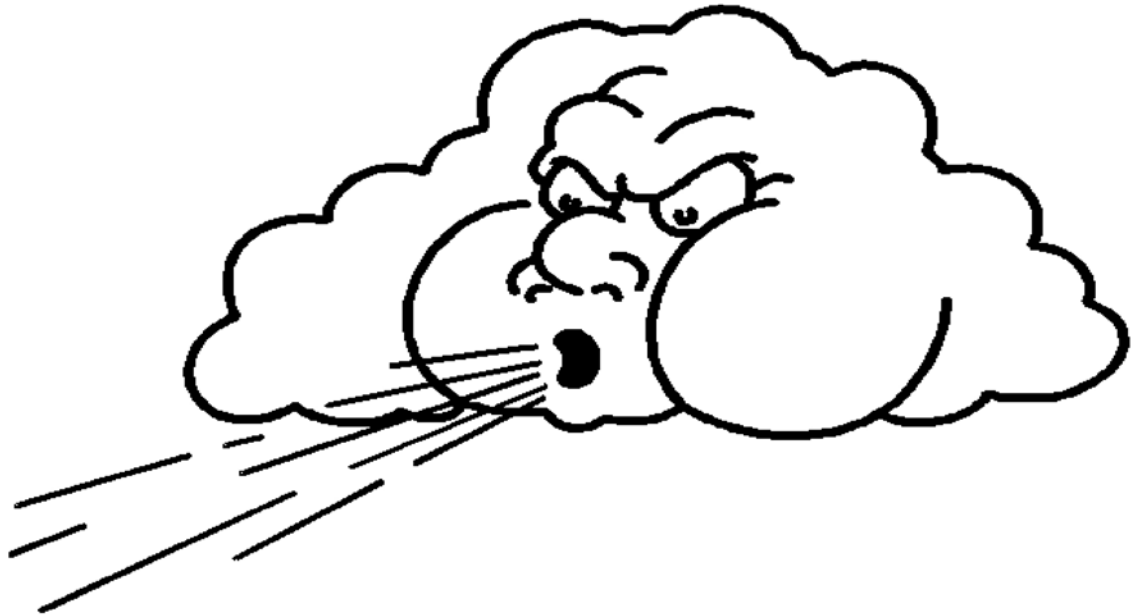
Your cyber liability insurance policy can be tailored to fit your unique situation and can be written to include the costs of disclosure after a data breach. Contact your agent or carrier to learn more about cyber liability insurance and how you can protect your agency from a data breach.

**Phishing is the attempt to acquire sensitive information such as usernames, passwords and credit card details by masquerading as a trustworthy entity in an electronic communication. Pharming is the fraudulent practice of directing internet users to a bogus website that mimics the appearance of a legitimate one, in order to obtain personal information such as passwords, account numbers, etc.*



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Mission Statement

FAHRO is committed to the professional development of the people who provide public and assisted housing in Florida by offering a network for increased communication and education. We will continue to support legislation for the improvement and development of affordable housing and economic opportunities.

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